

SUBCHAPTER A: DEFINITIONS
§§114.1, 114.2, 114.5 - 114.7
Effective December 13, 2010

§114.1. Definitions.

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Dual-fuel vehicle**--Any motor vehicle or motor vehicle engine engineered and designed to be operated on two different fuels, but not a mixture of the two.
- (2) **Emergency vehicle**--A vehicle defined as an authorized emergency vehicle according to Texas Transportation Code, §541.201(1).
- (3) **Emissions**--The emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, particulate, or any combination of these substances.
- (4) **First safety inspection certificate**--Initial Texas Department of Public Safety (DPS) certificates issued through DPS certified inspection stations for every new vehicle found to be in compliance with the rules and regulations governing safety inspections.
- (5) **Gross vehicle weight rating**--The value specified by the manufacturer as the maximum design loaded weight of a vehicle. This is the weight as expressed on the vehicle's registration, and includes the weight the vehicle can carry or draw.
- (6) **Heavy-duty vehicle**--Any passenger vehicle or truck capable of transporting people, equipment, or cargo, that has a gross vehicle weight rating (GVWR) greater than 8,500 pounds, and is required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the heavy-duty class is divided into the following subclasses:
 - (A) **Light heavy-duty vehicle**--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 8,500 pounds, but less than or equal to 10,000 pounds.
 - (B) **Medium heavy-duty vehicle**--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 10,000 pounds, but less than or equal to 19,500 pounds.
 - (C) **Heavy heavy-duty vehicle**--Any passenger vehicle or truck capable of transporting people, equipment, or cargo that has a GVWR greater than 19,500 pounds.

(7) **Inherently low emission vehicle**--A vehicle as defined by 40 Code of Federal Regulations, Part 88.

(8) **Law enforcement vehicle**--Any vehicle controlled by a local government and primarily operated by a civilian or military police officer or sheriff, or by state highway patrols, or other similar law enforcement agencies, and which is used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities.

(9) **Light-duty vehicle**--Any passenger vehicle or truck capable of transporting people, equipment, or cargo, that has a gross vehicle weight rating (GVWR) less than or equal to 8,500 pounds, and registered or required to be registered under Texas Transportation Code, §502.002. For purposes of the mobile emission reduction credit trading program the light-duty class is divided into the following subclasses:

(A) **Light-duty vehicle**--Any passenger vehicle capable of seating 12 or fewer passengers that has a GVWR less than or equal to 6,000 pounds.

(B) **Light-duty truck 1**--Any passenger truck capable of transporting people, equipment, or cargo, that has a GVWR less than or equal to 6,000 pounds.

(C) **Light-duty truck 2**--Any passenger truck capable of transporting people, equipment, or cargo, that has a GVWR greater than 6,000 pounds, but less than or equal to 8,500 pounds.

(10) **Loaded mode inspection and maintenance test**--A measurement of the tailpipe exhaust emissions of a vehicle while the drive wheel rotates on a dynamometer, which simulates the full weight of the vehicle driving down a level roadway. Loaded test equipment specifications shall meet United States Environmental Protection Agency requirements for acceleration simulation mode equipment.

(11) **Low emission vehicle (LEV)**--A vehicle in a class or category of vehicles that has been certified by the United States Environmental Protection Agency for any model year to meet:

(A) the LEV standards applicable under 42 United States Code, Part C, Subchapter II, §§7581 *et seq.*; or

(B) emission limits at least as stringent as the applicable LEV standards for the Federal Clean Fuel Fleet program under 40 Code of Federal Regulations §§88.104-94, 88.105-94, and 88.311-93, as published in the *Federal Register* on September 30, 1994 (59 FR 50042).

(12) **Mass transit authority**--A transportation or transit authority or department established under Chapter 141, 63rd Legislature (1973), as defined in Texas Transportation Code, Chapters 451- 453 (relating to Metropolitan Rapid Transit Authorities,

Regional Transportation Authorities, and Municipal Transit Departments), that operates a mass transit system under any of those laws.

(13) **Reformulated gasoline**--Gasoline that has been certified as a reformulated gasoline under the federal certification regulations adopted in accordance with 42 United States Code, §7545(k).

(14) **Texas Inspection and Maintenance State Implementation Plan**--The portion of the Texas state implementation plan that includes the procedures and requirements of the vehicle emissions inspection and maintenance program as adopted by the commission May 29, 1996, in accordance with 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992; the United States Environmental Protection Agency flexibility amendments dated September 18, 1995; and the National Highway Systems Designation Act of 1995. A copy of the Texas Inspection and Maintenance State Implementation Plan is available at the Texas Commission on Environmental Quality, 12100 Park 35 Circle, Austin, Texas, 78753; mailing address: P.O. Box 13087, MC 166, Austin, Texas 78711-3087.

(15) **Tier I federal emission standards**--The standards are defined in 42 United States Code, §7521, and in 40 Code of Federal Regulations, Part 86. The phase-in of these standards began in model year 1994.

(16) **Ultra low emission vehicle**--A vehicle as defined by 40 Code of Federal Regulations, Part 88.

(17) **Zero emission vehicle**--A vehicle as defined by 40 Code of Federal Regulations, Part 88.

Adopted June 27, 2007

Effective July 19, 2007

§114.2. Inspection and Maintenance Definitions.

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (TCAA), or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, the following words and terms, when used in Subchapter C of this chapter (relating to Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties), have the following meanings, unless the context clearly indicates otherwise.

(1) **Acceleration simulation mode (ASM-2) test**--An emissions test using a dynamometer (a set of rollers on which a test vehicle's tires rest) that applies an increasing load or resistance to the drive train of a vehicle, thereby simulating actual tailpipe emissions of a vehicle as it is moving and accelerating. The ASM-2 vehicle emissions test is comprised of two phases:

(A) the 50/15 mode--in which the vehicle is tested on the dynamometer simulating the use of 50% of the vehicle available horsepower to accelerate at a rate of 3.3 miles per hour (mph) per second at a constant speed of 15 mph; and

(B) the 25/25 mode--in which the vehicle is tested on the dynamometer simulating the use of 25% of the vehicle available horsepower to accelerate at a rate 3.3 mph per second at a constant speed of 25 mph.

(2) Consumer price index--The consumer price index for any calendar year is the average of the consumer price index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of the calendar year.

(3) Controller area network (CAN)--A vehicle manufacturer's communications protocol that connects to the various electronic modules in a vehicle. CAN provides one protocol that collects information from the vehicle's electronic systems including the on-board diagnostics (OBD) emissions testing system. The United States Environmental Protection Agency requires the CAN protocol to be installed in OBD-compliant vehicles beginning with some model year 2003 vehicles and phasing in to all OBD-compliant vehicles by the 2008 model year.

(4) Low-volume emissions inspection station--A vehicle emissions inspection station that meets all criteria for obtaining a low-volume waiver from the Texas Department of Public Safety.

(5) Motorist--A person or other entity responsible for the inspection, repair, and maintenance of a motor vehicle, which may include, but is not limited to, owners and lessees.

(6) On-board diagnostic (OBD) system--The computer system installed in a vehicle by the manufacturer that monitors the performance of the vehicle emissions control equipment, fuel metering system, and ignition system for the purpose of detecting malfunction or deterioration in performance that would be expected to cause the vehicle not to meet emissions standards. All references to OBD should be interpreted to mean the second generation of this equipment, sometimes referred to as OBD II.

(7) On-road test--Utilization of remote sensing technology to identify vehicles operating within the inspection and maintenance program areas that have a high probability of being high-emitters.

(8) Out-of-cycle test--Required emissions test not associated with vehicle safety inspection testing cycle.

(9) Primarily operated--Use of a motor vehicle greater than 60 calendar days per testing cycle in an affected county. Motorists shall comply with emissions requirements for such counties. It is presumed that a vehicle is primarily operated in the county in which it is registered.

(10) Program area--County or counties in which the Texas Department of Public Safety, in coordination with the commission, administers the vehicle emissions inspection and

maintenance program contained in the Texas Inspection and Maintenance State Implementation Plan. These program areas include:

(A) the Dallas-Fort Worth program area, consisting of the following counties: Collin, Dallas, Denton, and Tarrant;

(B) the El Paso program area, consisting of El Paso County;

(C) the Houston-Galveston-Brazoria program area, consisting of Brazoria, Fort Bend, Galveston, Harris, and Montgomery Counties; and

(D) the extended Dallas-Fort Worth program area, consisting of Ellis, Johnson, Kaufman, Parker, and Rockwall Counties. These counties became part of the program area as of May 1, 2003.

(11) Retests--Successive vehicle emissions inspections following the failing of an initial test by a vehicle during a single testing cycle.

(12) Testing cycle--Annual cycle commencing with the first safety inspection certificate expiration date for which a motor vehicle is subject to a vehicle emissions inspection.

(13) Two-speed idle (TSI) inspection and maintenance test--A measurement of the tailpipe exhaust emissions of a vehicle while the vehicle idles, first at a lower speed and then again at a higher speed.

(14) Uncommon part--A part that takes more than 30 days for expected delivery and installation, where a motorist can prove that a reasonable attempt made to locate necessary emission control parts by retail or wholesale part suppliers will exceed the remaining time prior to expiration of the vehicle safety inspection certificate or the 30-day period following an out-of-cycle inspection.

Adopted November 18, 2010

Effective December 13, 2010

§114.5. Transportation Planning Definitions.

Unless specifically defined in the TCAA or in the rules of the Texas Natural Resource Conservation Commission (commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in Subchapter G of this chapter (relating to Transportation Planning), shall have the following meanings, unless the context clearly indicates otherwise:

(1) Implementing agency - An entity, transportation provider, organization, agency, or individual responsible for the design, procurement of funds, construction, operation, maintenance, management, monitoring, and, in conjunction with the metropolitan planning organization, compliance with transportation control measures.

(2) Metropolitan Planning Organization - As defined under the Intermodal Surface Transportation Efficiency Act, Title 23, §134.

(3) Transportation Control Measure (TCM) - Any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in §7408 of the Federal Clean Air Act, 42 United States Code, 1970, as amended, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the first sentence of this definition, vehicle technology-based, fuel-based, or maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this section.

Adopted May 3, 2000

Effective May 28, 2000

§114.6. Low Emission Fuel Definitions.

Unless specifically defined in Texas Health and Safety Code, Chapter 382, also known as the Texas Clean Air Act (TCAA), or in the rules of the commission, the terms used in this subchapter have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by TCAA, §3.2, and §101.1 of this title (relating to Definitions), the following words and terms, when used in Subchapter H of this chapter (relating to Low Emission Fuels), have the following meanings, unless the context clearly indicates otherwise.

(1) **Additive**--Any substance that is intentionally added to gasoline or diesel fuel, including any added to a motor vehicle fuel system, and that is not intentionally removed prior to sale or use and that is:

(A) registered with the United States Environmental Protection Agency (EPA) in accordance with 40 Code of Federal Regulations Part 79; or

(B) added to gasoline or diesel for the purpose of reducing exhaust emissions from motor vehicles or non-road equipment and is exempted from the EPA registration requirements in accordance with 40 Code of Federal Regulations Part 79.

(2) **Barrel**--A unit of measure equal to 42 United States gallons.

(3) **Bulk plant**--An intermediate motor vehicle fuel distribution facility where delivery of motor vehicle fuel to and from the facility is solely by truck or pipeline.

(4) **Bulk purchaser/consumer**--A person who purchases or otherwise obtains motor vehicle fuel in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(5) **Common carrier**--A person engaged in the transportation of goods or products of another person for compensation and is available to the public for hire.

(6) **Designated alternative limit (DAL)**--An alternative specification limit for a specific fuel standard, which is assigned by a producer or importer to a final blend of low emission diesel fuel (LED) in accordance with §114.313 of this title (relating to Designated Alternative Limits)

(7) **Diesel fuel**-- Any fuel that is commonly or commercially known, sold, or represented as:

(A) Grade No. 1-D or Grade No. 2-D diesel fuel, in accordance with the active version of American Society for Testing and Materials (ASTM) D975 (Standard Specification for Diesel Fuel Oils), except for lubricity; and

(B) Marine Distillate fuel X (DMX), Marine Distillate fuel A (DMA), or Marine Gas Oil (MGO) diesel fuel in accordance with the active version of the International Organization for Standardization (ISO) 8217 Specifications of Marine Fuels

(8) **Final blend**--A distinct quantity of low emission diesel fuel (LED) that is introduced into commerce without further alteration, which would tend to affect a regulated specification of LED.

(9) **Further process**--To perform any activity on motor vehicle fuel, including distillation, treating with hydrogen, blending, or addition of an approved additive, for the purpose of bringing the motor vehicle fuel into compliance with the requirements of Subchapter H of this chapter.

(10) **Gasoline**--Any fuel that is commonly or commercially known, sold, or represented as gasoline, in accordance with American Society for Testing and Materials (ASTM) D4814-99 (Standard Specification for Automotive Spark-Ignition Engine Fuel), dated 1999.

(11) **Import**--The process by which motor vehicle fuel is transported into the State of Texas by any means or method whatsoever, including transport via pipeline, railway, truck, motor vehicle, barge, boat, or railway tank car.

(12) **Import facility**--The stationary motor vehicle fuel transfer point wherein the importer takes delivery of imported motor vehicle fuel and from which imported motor vehicle fuel is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the fuel will be delivered to a bulk plant or retail fuel dispensing facility.

(13) **Importer**--Any person, except a person acting as a common carrier, who imports motor vehicle fuel.

(14) **Low emission diesel fuel (LED)**--Any diesel fuel:

(A) sold, intended for sale, or made available for sale that may ultimately be used to power a diesel fueled compression-ignition engine in the counties listed in §114.319 of this title (relating to Affected Counties and Compliance Dates);

(B) that the producer knows, or reasonably should know, may ultimately be used to power a diesel fueled compression-ignition engine in counties listed in §114.319 of this title; and

(C) complies with the standards specified in §114.312 of this title (relating to Low Emission Diesel Standards).

(15) **Motor vehicle**--Any self-propelled device powered by a gasoline fueled spark-ignition engine or a diesel fueled compression-ignition engine in or by which a person or property is or may be transported, and is required to be registered under Texas Transportation Code (TTC), §502.002, excluding vehicles registered under TTC, §502.006(c).

(16) **Motor vehicle fuel**--Any gasoline or diesel fuel used to power gasoline fueled spark-ignition or diesel fueled compression-ignition engines.

(17) **Non-road equipment**--Any device powered by a gasoline fueled spark-ignition engine or a diesel fueled compression-ignition engine that is not required to be registered under Texas Transportation Code, §502.002.

(18) **Produce**--Perform the process to convert liquid compounds that are not motor vehicle fuel into motor vehicle fuel, except where a person supplies motor vehicle fuel to a producer who agrees in writing to further process the motor vehicle fuel at the production facility and to be treated as a producer of the motor vehicle fuel, only the final producer shall be deemed for all purposes under Subchapter H of this chapter to be the producer of the motor vehicle fuel.

(19) **Producer**--Any person who owns, leases, operates, controls, or supervises a production facility and/or produces motor vehicle fuel.

(20) **Production facility**--A facility at which motor vehicle fuel is produced or that manufactures liquid fuels by distilling petroleum.

(21) **Retail fuel dispensing outlet**--Any establishment at which gasoline and/or diesel fuel is sold or offered for sale for use in motor vehicles, and the fuel is directly dispensed into the fuel tanks of the motor vehicles using the fuel.

(22) **Supply**--To provide or transfer fuel to a physically separate facility, vehicle, or transportation system.

Adopted May 23, 2007

Effective June 14, 2007

§114.7. Low Income Vehicle Repair Assistance, Retrofits, and Accelerated Vehicle Retirement Program Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used in this chapter have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, §§3.2,

101.1, and 114.1 of this title (relating to Definitions), the following words and terms, when used in Subchapter C, Division 2, of this chapter (relating to Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program) have the following meanings, unless the context clearly indicates otherwise.

- (1) **Affected county**--A county with a motor vehicle emissions inspection and maintenance program established under Transportation Code, §548.301.
- (2) **Automobile dealership**--A business that regularly and actively buys, sells, or exchanges vehicles at an established and permanent location as defined under Transportation Code, §503.301. The term includes a franchised motor vehicle dealer and an independent motor vehicle dealer.
- (3) **Car**--A motor vehicle, other than a golf cart, truck or bus, designed or used primarily for the transportation of persons. A passenger van or sports utility vehicle may be considered a car under this section.
- (4) **Commercial vehicle**--A vehicle that is owned or leased in the regular course of business of a commercial or business entity.
- (5) **Destroyed**--Crushed, shredded, scrapped, or otherwise dismantled to render a vehicle, vehicle's engine, or emission control components permanently and irreversibly incapable of functioning as originally intended.
- (6) **Dismantled**--Extraction of parts, components, and accessories for use in the low income vehicle repair assistance, retrofit, and accelerated vehicle retirement program or sold as used parts.
- (7) **Emissions control equipment**--Relating to a motor vehicle that is subject to §114.50(a) of this title (relating to Vehicle Emissions Inspection Requirements). If the vehicle is so equipped, these include: exhaust gas recirculation system, power control module, catalytic converter, oxygen sensors, evaporative purge canister, positive crankcase ventilation valve, and gas cap.
- (8) **Engine**--The fuel-based power source of a motor vehicle that is subject to §114.50(a) of this title (relating to Vehicle Emissions Inspection Requirements).
- (9) **Fleet vehicle**--A motor vehicle operated as one of a group that consists of more than ten motor vehicles and that is owned and operated by a public or commercial entity or by a private entity other than a single household.
- (10) **Hybrid motor vehicle**--A motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and a rechargeable energy storage system.
- (11) **LIRAP**--Low income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

(12) **Motor vehicle**--A fully self-propelled vehicle having four wheels that has as its primary purpose the transport of a person, persons, or property on a public highway.

(13) **Participating county**--An affected county in which the commissioners court by resolution has chosen to implement a low income vehicle repair assistance, retrofit, and accelerated vehicle retirement program authorized by Texas Health and Safety Code, §382.209.

(14) **Proof of sale**--A notice of sale or transfer filed with the Texas Department of Transportation as required under Texas Transportation Code, §503.005, or if unavailable, an affidavit from the selling dealer or documents approved by the commission.

(15) **Proof of transfer**--A TCEQ form that identifies the vehicle to be destroyed and tracks the transfer of the vehicle to the recycler from the participating county, automobile dealer, and dismantler.

(16) **Qualifying motor vehicle**--A motor vehicle that meets the requirements for replacement in §114.64 of this title (relating to LIRAP Requirements).

(17) **Recognized emissions repair facility**--An automotive repair facility as provided in 37 Texas Administrative Code §23.93, relating to Vehicle Emissions Inspection Requirements.

(18) **Recycled**--Conversion of metal or other material into raw material products that have prepared grades; an existing or potential economic value; and using these raw material products in the production of new products.

(19) **Replacement vehicle**--A vehicle that is in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or cleaner Bin certification under 40 Code of Federal Regulations §86.1811-04, as published in the February 10, 2000, *Federal Register*; has a gross vehicle weight rating of less than 10,000 pounds; the total cost does not exceed \$25,000 and has passed a Department of Public Safety motor vehicle safety inspection or safety and emissions inspection within the 15-month period before the application is submitted.

(20) **Retrofit**--To equip, or the equipping of, an engine or an exhaust or fuel system with new, emissions-reducing parts or equipment designed to reduce air emissions and improve air quality, after the manufacture of the original engine or exhaust or fuel system, so long as the parts or equipment allow the vehicle to meet or exceed state and federal air emissions reduction standards.

(21) **Retrofit equipment**--Emissions-reducing equipment designed to reduce air emissions and improve air quality that is approved by the United States Environmental Protection Agency and is installed after the manufacture of the original engine, exhaust, or fuel system.

(22) **Total cost**--The total amount money paid or to be paid for the purchase of a motor vehicle as set forth as the sales price in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Transportation. In a transaction that does not

involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as the sales price on the application for Texas Certificate of Title if that form were used.

(23) **Truck**--A motor vehicle having a gross vehicle weight rating of less than 10,000 pounds and designed primarily for the transport of persons and cargo.

(24) **Vehicle**--A motor vehicle subject to §114.50(a) of this title (relating to Vehicle Emissions Inspection Requirements).

(25) **Vehicle owner**--For the purposes of repair assistance or retrofit, the person who holds the Certificate of Title for the vehicle and/or the operator who is granted possession and is authorized to make repairs under a lease or purchase agreement; and for the purposes of accelerated retirement, the person who holds the Certificate of Title for the vehicle.

(26) **Vehicle retirement facility**--A facility that, at a minimum, is licensed, certified, or otherwise authorized by the Texas Department of Transportation to destroy, recycle, or dismantle vehicles.

Adopted December 5, 2007

Effective December 27, 2007

Derivation Table
Rule Log No. 97163-114-AI
Reformat of Chapter 114
Adopted November 5, 1997
Effective December 1, 1997

Chapter 114 - Control of Air Pollution From Motor Vehicles
Subchapter A: Definitions

This table is to track sections after rule revisions. The column on the left lists the sections after the revision that is to be effective on December 1, 1997. The column on the right lists where the section was prior to the revision.

New Section	Old Section
114.1	114.3(a), 114.23(a), 114.29(a), 114.30
114.2	114.3(a)
114.3	114.30
114.4	114.29(a)
114.5	114.23(a)